

General Information Letter: Response to survey on adoption of MTC regulations.

December 28, 2000

Dear:

This is in response to your letter dated November 13, 2000. Given the nature of your inquiry and the information you provide, I am responding with a General Information Letter. This is not to be taken as a statement of Department policy or as a binding ruling by the Department. As general information gathered in response to your particular questions, however, I hope that it is helpful to you. See 86 Ill. Adm. Code 1200.120(b) and (c), which can be obtained at the following website:

<http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter you have stated the following:

Periodically, the Multistate Tax Commission (MTC) surveys the tax and revenue agencies of each State to determine which, if any, of the MTC model regulations, guidelines or statutes your State has adopted, either in whole or in part. We are again asking your assistance in this effort. To assist you in this endeavor we enclose a worksheet that contains a list of MTC's Model Regulations, Guidelines, and Statutes.

Please note whether, in your judgement, your State has adopted the identified MTC uniformity regulation, guideline, or model statute. If your State has adopted the item, please reference the applicable law, regulation or other official action.

If your State has formally adopted the identified model regulation, guideline, or statute listed below, but there are minor changes, you can mark the "Adopt MTC Regulation" box: "substantially." Again, please reference the applicable law, regulation or other official action.

If your State has formally adopted the identified model regulation, guideline, or statute listed below, with substantial changes, you can mark the "Adopt MTC Regulation" box: "With changes." Even in this case, please reference the applicable law, regulation or other official action. Additionally, please also note on a separate sheet of paper the substantial changes your State has made in its adoption.

If your State has not formally adopted the identified model regulation, guideline, or statute listed below, you can mark the "Adopt MTC Regulation" box: "no."

Please also note that we have made a special provision for you to note whether your State has adopted UDIPTA's equally weighted three factor formula or some other weighting of this formula.

The Model Regulations refer to Corporate Income Tax Allocations and Apportionment Regulations applicable to Article IV of the Multistate Compact and to the Uniform Division of Income for Tax Purposes Act. The Special Industry Rules are noted as follows:

Reg. IV.18(d) Construction Contractors  
Reg. IV.18(e) Airlines  
Reg. IV.18(f) Railroads

Reg. IV.18(g) Trucking Companies  
Reg. IV.18(h) Television and Radio Broadcasting  
Reg. IV.18(j) Publishing

We are also requesting your assistance in providing the same information concerning the Model Recordkeeping and Retention Regulation, Model Direct Pay Permit Regulation and the Provision for the Collection of Tax on Fundraising Transactions. Please also advise us regarding your State's adoption of the following MTC Model Statutes: the recommended formula for the apportionment and allocation of net income of financial institutions, ABA Model S Corporation Income Tax Act (MOSCITA), the Uniform Protest Statute, and the Uniform Principles Governing State Transactional taxation of Telecommunications, either the Vendor Version or the Vendee Version, the Applicability of Sales and/or Use Tax to Sales of Computer Software, and the Statement of Information Concerning Practices of Multistate tax Commission and Signatory States Under Public Law 86-272. Phase I refers to the guidelines adopted in 1993 and Phase II refers to the revisions adopted in 1994.

## **Response**

Given the form of response, I will reproduce the substance of the form accompanying your letter and provide the information as appropriate:

MTC	Description	Adopt	Ill. Stat. Or Reg.
IV.1.(a)	Business and Nonbusiness Income Defined	Substantially	35 ILCS 5/1501(a)(1) & (13)
IV.1.(b)	Two or More businesses	Substantially	86 Ill. Ad. Cde.§100.3010(b)
IV.1.(c)	Bus. and Nonbus. Applic.	Substantially	86 Ill. Ad. Cde.§100.3010(d)
IV.1.(d)	Proration of Deductions	Substantially	86 Ill. Ad. Cde.§100.3010(e)
IV.2.(a)	Definitions	Substantially	86 Ill. Ad. Cde.§100.3010(f)
IV.2.(b)(1)	Apportionment	Substantially	86 Ill. Ad. Cde.§100.3320(a)
IV.2.(b)(2)	Combined Report	No	
IV.2.(b)(3)	Allocation	Substantially	86 Ill. Ad. Cde.§100.3330
IV.2.(c)	Consistency and Uniformity	No	
IV.3.(a)	Taxable in Another State	Substantially	86 Ill. Ad. Cde.§100.3200
IV.9.	Apportionment Formula	Substantially	35 ILCS 5/304(a)
	Weight: Payroll	None	(After 12/31/2000)
	Weight: Property	None	(After 12/31/2000)
	Weight: Sales	100%	(After 12/31/2000)
IV.10.(a)	Property Factor: In Gen.	Substantially	86 Ill. Ad. Cde.§100.3350(a)
IV.10.(b)	Prop. Factor: Production	Substantially	86 Ill. Ad. Cde.§100.3350(b)
IV.10.(c)	Prop. Factor: Consistency	Substantially	86 Ill. Ad. Cde.§100.3350(c)
IV.10.(d)	Prop. Factor: Numerator	Substantially	86 Ill. Ad. Cde.§100.3350(d)
IV.11.(a)	Prop. Factor: Owned Prop.	Substantially	86 Ill. Ad. Cde.§100.3350(e)
IV.11.(b)	Prop. Factor: Rented Prop.	Substantially	86 Ill. Ad. Cde.§100.3350(f)
IV.12.	Prop. Factor: Avrgng Vals.	Substantially	86 Ill. Ad. Cde.§100.3350(g)
IV.12.(a)	Payr. Factor: General	Substantially	86 Ill. Ad. Cde.§100.3360(a)
IV.13.(b)	Payr. Factor: Denominator	Substantially	86 Ill. Ad. Cde.§100.3360(b)
IV.13.(c)	Payr. Factor: Numerator	Substantially	86 Ill. Ad. Cde.§100.3360(c)

IV.14	Payr. Factor: Cmp. In State	Substantially	86 Ill. Ad. Cde. §100.3120(a)(1)
IV.15.(a)	Sales Factor: General	Substantially	86 Ill. Ad. Cde. §100.3370(a)
IV.15.(b)	Sales Factor: Denominator	Substantially	86 Ill. Ad. Cde. §100.3370(b)
IV.15.(c)	Sales Factor: Numerator	Substantially	86 Ill. Ad. Cde. §100.3370(c)
IV.16.(a)	Sales Factor: Sales In State	Substantially	86 Ill. Ad. Cde. §100.3370(c)(1)
IV.16.(b)	Sales: US Government Sales	Substantially	86 Ill. Ad. Cde. §100.3370(c)(2)
IV.17	Sales: Non-Tangible In State	Substantially	86 Ill. Ad. Cde. §100.3370(c)(3)
IV.18.(a)	Special Rules: General	Substantially	35 ILCS 5/304(f)
IV.18.(b)	Special Rules: Property	Substantially	86 Ill. Ad. Cde. §100.3380(a)
IV.18.(c)	Special Rules: Sales	Substantially	86 Ill. Ad. Cde. §100.3380(b)
IV.18.(d)	Construction	No	
IV.18.(e)	Airlines	No	
IV.18.(f)	Railroads	No	
IV.18.(g)	Trucking	No	
IV.18.(h)	Television and Radio	No	
IV.18.(j)	Publishing	No	
	Financial Institutions	No	
	Direct Pay Permit	No	
	Collctn of Tax on Fundrsng	No	
	MTC Stmnt on PL 86-272	No	
	Computer Software	No	
	Recordkeeping Reg.	No	
	Protest Statute	No	
	S Corp. Income Tax Act	No	
	Telecommunications	No	

This completes all responses required in the form attached to your letter.

Please do not hesitate to call me at (217) 782-2844 if there are further questions. As stated above, this is a general information letter that does not constitute a statement of policy that applies, interprets or prescribes tax law. It is not binding on the Department as a definitive statement of law.

Sincerely,

Kent R. Steinkamp  
Staff Attorney -- Income Tax